

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking Regarding Broadband  
Infrastructure Deployment and to Support Service  
Providers in the State of California.

Rulemaking 20-09-001  
(Filed August 6, 2021)

**OPENING COMMENTS OF  
CALIFORNIA STATE ASSOCIATION OF COUNTIES  
ON ASSIGNED COMMISSIONER'S RULING**

Date: September 3, 2021

Geoffrey Neill  
Legislative Representative  
California State Association of  
Counties  
1100 K Street, Suite 101  
Sacramento, CA 95814  
Telephone: 916-327-7500, ext. 567  
E-mail: [gneill@counties.org](mailto:gneill@counties.org)

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The California State Association of Counties (CSAC) respectfully submits these Opening Comments on the Assigned Commissioner's Ruling, mailed in Rulemaking (R.) 20-09-001 (Broadband Infrastructure) on August 6, 2021 (August 6 ACR). These Opening Comments are timely filed and served pursuant to the California Rules of Practice and Procedure and the August 6 ACR. In addition, the deadline for Opening Comments on the August 6 ACR was extended to September 3, 2021 pursuant to Administrative Law Judge Ruling, dated August 20, 2021.

**I.  
BACKGROUND**

CSAC is a nonprofit mutual benefit corporation under the California Nonprofit Mutual Benefit Corporation Law. CSAC is a lobbying, advocacy, and service organization which represents all 58 counties of the State of California. CSAC is focused on advancing the vital public interest in effective, efficient, and responsive local government. CSAC, under the name of the County Supervisors Association of California began meeting in 1895 and was later renamed CSAC in 1991 and is based in Sacramento, California. CSAC's long-term objective is to significantly improve the fiscal health of all California counties so they can adequately meet the demand for vital public programs and services.

## **II. SUMMARY**

The August 6 ACR opened “a public comment process to collect recommendations for the locations for a statewide open-access middle-mile broadband network.”<sup>1</sup> In addition, the August 6 ACR identified the following issues for public comment: (1) identifying existing Middle Mile infrastructure, (2) priority areas, (3) assessing the affordability of Middle Mile infrastructure, (4) leasing existing infrastructure, (5) interconnection, and (6) network route capacity.<sup>2</sup> CSAC’s Opening Comments will address the issues of priority areas and leasing existing infrastructure.

CSAC believes that construction of a new, state-owned, open-access, middle-mile network will create a permanent public benefit for the residents and local economies of every county. The most significant benefits will accrue to rural and urban households and businesses where adequate broadband service is unavailable, and CSAC believes planning and construction should prioritize those areas. However, construction should be pursued as quickly as possible in every area of the state both to provide the benefits of the network more quickly and to ensure the federal funds being used are encumbered in the time required.

## **III. CSAC’S OPENING COMMENTS ON THE AUGUST 6 ACR**

CSAC was a strong supporter of Senate Bill (SB) 156 and in fact early in 2021 formed and led a broad coalition of organizations to urge policymakers to allocate \$8 billion dollars for broadband infrastructure and affordability measures. The coalition subsequently supported Governor Gavin Newsom’s May Revision budget proposal to allocate \$7 billion for broadband infrastructure and finally supported the passage of SB 156, which includes \$6 billion for this

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<sup>1</sup> August 6 ACR, at p. 1.

<sup>2</sup> *Id.*, at pp. 4-7.

purpose. The goal from the beginning has been, as much as possible, to permanently close the Digital Divide in California, which has existed for far too long and has deprived Californians of opportunities for education, health care, entrepreneurship, and participation in modern life.

The CSAC-led coalition explicitly used as a basis for its request the “California Broadband Cost Model” commissioned by the CPUC in 2020 and included in the Broadband for All Action Plan, which estimated that the cost to build 100 Mbps fiber to every structure unserved at that speed would cost \$6.8 billion.<sup>3</sup> That estimate included a statewide middle mile network at the cost of \$2.2 billion, which estimate was based on “a full state greenfield analysis.” Later refinements to that estimate raised the cost somewhat, leading the Governor’s proposal and the Legislature’s bill, SB 156, to include \$3.25 billion for a statewide, open-access, middle mile network.

The Governor’s press release announcing his signing SB 156 stated that the bill “advances the statewide broadband plan with expanded infrastructure *prioritizing unserved and underserved areas*” and that it included “\$3.25 billion to *build, operate and maintain* an open access, *state-owned* middle mile network [emphasis added].”<sup>4</sup> A joint statement the previous week from the Governor, Senate President Pro Tempore Toni Atkins, and Assembly Speaker Anthony Rendon stated that:

This broadband package...will be a legacy project that will benefit generations of rural and urban residents alike. This legislation will yield vital, broadened access for California families by prioritizing the unserved and underserved areas, facilities, households, and businesses that remain disconnected in the digital era.<sup>5</sup>

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<sup>3</sup> Broadband Action Plan 2020 which can be found here: <https://broadbandcouncil.ca.gov/wp-content/uploads/sites/68/2020/12/BB4All-Action-Plan-Final.pdf>

<sup>4</sup> “Governor Newsom Signs Historic Broadband Legislation to Help Bridge Digital Divide” which can be found here: <https://www.gov.ca.gov/2021/07/20/governor-newsom-signs-historic-broadband-legislation-to-help-bridge-digital-divide/>

<sup>5</sup> “Governor Newsome, Legislative Leaders Announce Historic Broadband Budget Bills” which can be found here: <https://www.gov.ca.gov/2021/07/12/governor-newsom-legislative-leaders-announce-historic-broadband-budget-bill/>

CSAC urges the Commission to uphold these promises made to Californians. It can do that in three ways: by building infrastructure instead of leasing, by prioritizing unserved and underserved areas, and by working quickly.

First, the statewide, open-access, middle mile network must be permanent public infrastructure that will benefit generations of Californians by ensuring that the network, or at least the vast majority of it, is owned by the state, not leased. While leasing fiber might in certain circumstances allow areas to gain access more quickly, it does so at the expense of permanence. Any leases should be temporary by design and include a plan to functionally replace those leases with permanent public infrastructure. As Commissioners are aware, California's ability to regulate broadband networks is largely precluded by federal laws and regulations. CSAC believes that relying on unregulated, privately owned networks would, in the long-term, jeopardize the permanent public benefit that a state-owned middle mile network promises.

In addition, for areas that have access to existing privately owned middle mile networks, a state-owned network would provide redundancy, which improves resilience in the face of increasingly frequent and severe natural disasters, and which increases the reliability of communications in times of disaster, improving safety for the public and disaster-response teams that rely on those communications.

Furthermore, a reason frequently cited for building a "statewide" open-access, middle mile network during the build-up to and passage of SB 156 is the increased competition it will bring to consumers of digital services. The construction of open-access fiber in areas already served by proprietary fiber, and the competition it will bring to the tens of millions of Californians in broadband monopolies, is not an oversight. On the contrary, it is a specifically stated reason for the network in the first place.

Second, the statewide, open-access, middle mile network must prioritize unserved and underserved Californians. While providing welcome competition to areas stuck in a monopoly is a feature of the network, the immediate needs of those without access to 100 Mbps service are more acute. These unserved and underserved areas lack access to basic modern services, such as education and health care, and include far-flung towns in rural California as well as redlined communities in urban areas. A state-owned, open-access, middle mile network will make it faster and more cost-effective for all internet service providers to deploy last-mile fiber to the homes and businesses in these communities. While the middle mile network should be built everywhere with an eye to the last-mile infrastructure that is sure to follow, it should not be limited to those areas that have specific plans for last-mile deployment. The internet, like the telephone system before it, is more valuable to everyone when everyone is connected, and the Commission can grant applications for last-mile projects based on middle-mile access rather than delaying or failing to provide middle mile access in areas where last-mile plans are not yet finalized. A statewide middle mile network is not a road to nowhere; it will be a road to everywhere.

Finally, speed is of the essence. While unserved and underserved communities should be prioritized, a middle mile network by its nature can be built in many areas simultaneously. CSAC urges the planning, permitting, and contracting processes to take advantage of the fact that many construction crews in many parts of the state can all work in parallel to ensure the federal funding being used for this project is encumbered and spent within the time limits set by the laws governing its use. Delay will mean the money being diverted to other, less transformational uses, and once again California will have missed a chance to close the Digital Divide once and for all.

**IV.  
CONCLUSION**

CSAC appreciates the opportunity to submit these Opening Comments on the August 6 ACR.

Respectfully submitted,

September 3, 2021

/s/ Geoffrey Neill  
Geoffrey Neill  
Legislative Representative  
California State Association of Counties  
1100 K Street, Suite 101  
Sacramento, CA 95814  
Tel: 916-327-7500 ext. 567  
E-mail: [gneill@counties.org](mailto:gneill@counties.org)